HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION No.19136 of 2006

Date: 05-06-2007.

Between :

M/s.Hemadri Enterprises, Tadepalli, Guntur District, rep. by its Proprietor.

.....Petitioner

And

The State of Andhra Pradesh, rep. by its Principal Secretary,
Commercial Tax Department & others.

.....Respondents.

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ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned Counsel for the parties.

Petitioner had suffered an order which was challenged by him before the Appellate Deputy Commissioner and it was decided against him on 31st of December 2005. Thereafter, it appears that he approached the Authority for Clarifications and Advance Rulings. It also decided against the petitioner. Without challenging these orders, this writ petition has been filed seeking a direction from this Court that the action of respondents in inclusion of old empty beer/liquor bottles under Entry 90 of IV Schedule of A.P. VAT Act, 2005 by imposing 4% tax, was illegal, arbitrary and discriminatory.

In the absence of any challenge to the orders suffered by the petitioner from the competent authorities, it would be difficult for this Court to go into the question of

any alleged illegality in Entry 90 of IV Schedule of A.P.VAT Act as far as imposing tax on old empty beer bottles was concerned. In fact, Entry 90 does not refer to empty bottles, but refers to all packing material, which may or may not, in a given case, include empty bottles as well. Therefore, we do not think that this writ petition is maintainable in its present form. It is submitted that the orders suffered by the petitioner are also appellable before the Tribunal and the counsel for petitioner is not sure whether an appeal has been filed or not. In this view of the matter, we dismiss the writ petition giving liberty to the petitioner to file an appeal if he has not filed so far, within a period of two weeks from today.

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BILAL NAZKI, J

5th June 2007

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S. ANANDA REDDY, J

ajr